

REMARKS

By the foregoing Amendment, Claims 20 and 22 have been amended. Favorable reconsideration of the application is respectfully requested.

The Examiner objected to the format of the information disclosure statement filed December 8, 2003. The Examiner indicated that 37 CFR §1.98(a)(1) requires "a column that provides a blank space next to each document to be considered, for the examiner's initials; and a heading that clearly indicates that the list is an information disclosure statement," but it is respectfully submitted that 37 CFR §1.98(a)(1) only requires a "list of all patents, publications, applications, or other information submitted for consideration by the Office," which was fulfilled by the information disclosure statement filed December 8, 2003. For the Examiner's convenience, a new Form 1449 cleanly listing the references cited in the information disclosure statement filed December 8, 2003 is attached.

Claim 22 was rejected under 35 U.S.C. 112, second paragraph, on the grounds of indefiniteness. The Examiner indicated that Claim 22 was not clear as to whether the combination of an endoluminal therapeutic device and an endoluminal delivery device was claimed, or the delivery device. In order to clarify Claim 22 to more clearly relate to the claimed endoluminal delivery device, Claim 22 has been amended to recite "wherein said tubular distal tip captures a stem portion of the endoluminal therapeutic device," so that the stem portion is not positively recited as an element claimed, and it is

consequently believed that the rejection of Claim 22 on the grounds of indefiniteness can be withdrawn.

Claims 20-23 were rejected under 35 U.S.C. 102(b) on the grounds of anticipation by Yurek et al., disclosing a rolling membrane stent delivery device including a flexible outer catheter 18 with a rolling membrane sheath 22 having inner and outer sheath layers converging to form a distal tip 26 having an opening of reduced size, and an inner catheter 28 for containing a guidewire 32 extending beyond the distal tip. Claim 20 has been amended to recite "an elongated pusher member coaxially disposed within the elongated flexible tubular catheter and having a distal end adapted to contact and dislodge the portion of the endoluminal therapeutic device from said tubular distal tip." In Yurek et al., the inner catheter 28 remains attached to the inner sheath layer 46 containing the stent 56, preventing inner catheter 28 from contacting and dislodging the stent 56. Instead, to release the stent, the outer catheter 18 is moved proximally to roll the membrane away from the stent, allowing the stent to radially expand. It is therefore respectfully submitted that Claims 20-23 are novel and inventive over Yurek et al., and that the rejection of Claims 20-23 on the grounds of anticipation by Yurek et al. should be withdrawn.


Claims 20-23 were rejected under the judicially created doctrine of obviousness-type double patenting in view of claims 1-3 of U.S. Patent No. 6,679,903. Claims 20-22 were rejected under the judicially created doctrine of obviousness-type double patenting in view of claims 1-3 of U.S. Patent No. 6,319,267. Claims 20-22 were rejected under the judicially created doctrine of obviousness-type double patenting in view of claims 1-

15 of U.S. Patent No. 6,102,932. It is believed with the enclosed corrected Terminal Disclaimer requested by the Examiner, the rejections on the grounds of obviousness-type double patenting can be withdrawn. A check covering the fee for the filing of the Terminal Disclaimer is enclosed.

In light of the foregoing amendments and remarks, it is respectfully submitted that the application should now be in condition for allowance, and an early favorable action in this regard is respectfully requested.

Respectfully submitted,

FULWIDER PATTON LEE & UTECHT, LLP

By: 
David G. Parkhurst
Reg. No. 29,422

DGP/rvw
Encls.: Return Postcard
PTO 1449 Form
Terminal Disclaimer
Check

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U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

ATTY. DOCKET NO.

MICRU 66414

SERIAL NO.

10/731,634

INFORMATION DISCLOSURE CITATION

(Use Several Sheets If Necessary)

APPLICANT

DANIEL R. KURZ

FILING DATE

Dec. 8, 2003

GROUP

3731

U.S. PATENT DOCUMENTS

EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUB CLASS	FILING DATE IF APPLICABLE
	3,868,956	MARCH 4, 1975	ALFIDI ET AL.			
	4,494,531	JANUARY 22, 1985	GIANTURCO			
	4,512,338	APRIL 23, 1985	BALKO ET AL.			
	4,748,986	JUNE 7, 1988	MORRISON ET AL			
	4,994,069	FEBRUARY 19, 1991	RITCHART ET AL.			
	5,026,377	JUNE 25, 1991	BURTON ET AL.			
	5,108,407	APRIL 28, 1992	GEREMIA ET AL.			
	5,122,136	JUNE 16, 1992	GUGLIELMI ET AL.			
	5,217,484	JUNE 8, 1993	MARKS			
	5,228,453	JULY 20, 1993	SEPETKA			
	5,250,071	OCTOBER 5, 1993	PALERMO			

FOREIGN PATENT DOCUMENTS

	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUB CLASS	TRANSLATION	
						YES	NO
	DE 4102550 A1	08/08/1991	GERMANY				
	UK 2 066 839 A	15 JULY 1981	UNITED KINGDOM				
	EP 0 183372 A1	04.06.86	EUROPE				
	EP 0 382014 A1	16.08.90	EUROPE				
	592.182	28 JULY, 1925	FRANCE				

OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)

REFERENCES	CHRISTOS A. ATHANASOULIS, M.D. THE NEW ENGLAND JOURNAL OF MEDICINE, MAY 15, 1980 "THERAPEUTIC APPLICATIONS OF ANGIOGRAPHY" PAGES 1117 - 1125 (1 OF 2)
	CHRISTOS A. ATHANASOULIS, M.D. THE NEW ENGLAND JOURNAL OF MEDICINE, MAY 22, 1980 "THERAPEUTIC APPLICATIONS OF ANGIOGRAPHY" PAGES 1174 - 1179 (2 OF 2)
	ALEX BERENSTEIN, M.D. AND IRVIN I. KRICHEFF, M.D. "CATHETER AND MATERIAL SELECTION FOR TRANSARTERIAL EMBOLIZATION: TECHNICAL CONSIDERATIONS" RADIOLOGY, SEPTEMBER 1979; PAGES 631 - 639.
	O.A. BATTISTA, ET AL. JOURNAL OF APPLIED POLYMER SCIENCE 1967 "COLLOIDAL MACROMOLECULAR PHENOMENA. PART II. NOVEL MICROCRYSTALS OF POLYMERS" PAGES 481 - 498.

EXAMINER

DATE CONSIDERED

EXAMINER Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication with applicant.

126139.1

Form PTO-FB-A820

(also form PTO-1449)

U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE INFORMATION DISCLOSURE CITATION <small>(Use Several Sheets if Necessary)</small>				ATTY. DOCKET NO. MICRU 66414		SERIAL NO. 10/731,631	
				APPLICANT DANIEL R. KURZ			
				FILING DATE Dec - 8, 2003		GROUP 3731	

U.S. PATENT DOCUMENTS							
EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CL ASS	SUB CLASS	FILING DATE IF APPLICABLE	
	5,336,205	AUGUST 9, 1994	ZENZEN ET AL.				
	5,350,397	SEPTEMBER 27, 1994	PALERMO ET AL.				
	5,354,295	OCTOBER 11, 1994	GUGLIELMI ET AL				
	5,312,415	MAY 17, 1994	PALERMO				
	5,639,277	JUNE 17, 1997	MARIANT ET AL.				
	5,649,949	JULY 22, 1997	WALLACE ET AL.				
	5,222,969	JUNE 29, 1993	GILLIS				
	5,607,445	MARCH 4, 1997	SUMMERS				
	5,667,522	SEPTEMBER 16, 1997	FLOMENBLIT ET AL.				
	5,514,176	MAY 7, 1996	BOSLEY, JR.				
	5,582,619	DECEMBER 10, 1996	KEN				

FOREIGN PATENT DOCUMENTS							
EXAMINER INITIAL	DOCUMENT NUMBER	DATE	COUNTRY	CL ASS	SUB CLASS	TRANSLATION	
						YES	NO

OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)	
REFERENCES	SADEK K. HILAL, M.D. ET AL. JOURNAL OF NEUROLOGICAL SURGERY "THERAPEUTIC PERCUTANEOUS EMBOLIZATION FOR EXTRA-AXIAL VASCULAR LESIONS OF THE HEAD, NECK AND SPINE" SEPTEMBER, 1975; PAGES 275 - 287. STEPHEN L. KAUFMAN, M.D. ET AL. INVESTIGATIVE RADIOLOGY, MAY-JUNE 1978 "TRANSCATHETER EMBOLIZATION WITH MICROFIBRILLAR COLLAGEN IN SWINE"; PAGES 200-204 ASHOK J. KUMAR, ET AL., JOURNAL OF NEURORADIOLOGY (1982) "PREOPERATIVE EMBOLIZATION OF HYPERVASCULAR HEAD AND NECK NEOPLASMS USING MICROFIBRILLAR COLLAGEN", PAGES 163 -168. RICHARD E. LATCHAW, M.D. ET AL., RADIOLOGY (1979) "POLYVINYL FOAM EMBOLIZATION OF VASCULAR AND NEOPLASTIC LESIONS OF THE HEAD, NECK AND SPINE" PAGES 669 - 679. STEWART R. REUTER, M.D. ET AL. AMERICAN JOURNAL OF RADIOLOGY, SEPTEMBER 1975 "SELECTIVE ARTERIAL EMBOLIZATION FOR CONTROL OF MASSIVE UPPER GASTROINTESTINAL BLEEDING" PAGES 119 - 126.
EXAMINER	DATE CONSIDERED

EXAMINER Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication with applicant.

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U.S. PATENT DOCUMENTS							
EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUB CLASS	FILING DATE IF APPLICABLE	
	5,562,641	OCTOBER 8, 1996	FLOMENBLIT ET AL.				
	5,549,624	AUGUST 27, 1996	MIRIGIAN ET AL.				
	5,226,911	JULY 13, 1993	CHEE ET AL.				
	5,690,666	NOVEMBER 25, 1997	BERENSTEIN ET AL.				
	5,522,836	JUNE 4, 1996	PALERMO				
	5,569,245	OCTOBER 29, 1996	GUGLIELMI ET AL.				
	4,768,507	SEPTEMBER 6, 1988	FISCHELL ET AL.				
	4,795,458	JANUARY 3, 1989	REGAN				
	4,800,882	JANUARY 31, 1989	GIAN TURCO				
	4,813,925	MARCH 21, 1989	ANDERSON, JR. ET AL.				

FOREIGN PATENT DOCUMENTS							
DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUB CLASS	TRANSLATION		
					YES	NO	

OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)	
	GLENN H. ROBERSON, ET AL., AMERICAN JOURNAL OF RADIOLOGY, OCTOBER 1979 "THERAPEUTIC EMBOLIZATION OF JUVENILE ANGIOFIBROMA" PAGES 657 -663
	SIDNEY WALLACE, M.D. ET AL., CANCER, OCTOBER 1979 "ARTERIAL OCCLUSION OF PELVIC BONE TUMORS"; PAGES 322-325 & 661-663
ARTICLES	"MECHANICAL DEVICES FOR ARTERIAL OCCLUSION" BY C. GIAN TURCO, M.D., ET AL., JULY 1975 PAGES 428 - 435
	"THERAPEUTIC VASCULAR OCCLUSION UTILIZING STEEL COIL TECHNIQUE: CLINICAL APPLICATIONS" BY SIDNEY WALLACE, ET AL., AM J. ROENTGENOL (1976); PAGES 381-387
	"TRANSCATHETER INTRAVASCULAR COIL OCCLUSION OF EXPERIMENTAL ARTERIOVENOUS FISTULAS", BY JAMES H. ANDERSON, ET AL., AM. J. ROENTGENOL, NOVEMBER 1977, PAGES 795 -798.
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U.S. PATENT DOCUMENTS							
EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CL ASS	SUB CLASS	FILING DATE IF APPLICABLE	
	4,856,516	AUGUST 15, 1989	HILLSTEAD				
	4,957,479	SEPTEMBER 18, 1990	ROEMER				
	4,990,155	FEBRUARY 5, 1991	WILKOFF				
	5,041,084	AUGUST 20, 1991	DeVRIES ET AL.				
	5,133,732	JULY 28, 1992	WIKTOR				
	5,141,502	AUGUST 25, 1992	MACALUSO, JR.				
	5,147,370	SEPTEMBER 15, 1992	McNAMARA ET AL.				
	5,160,341	NOVEMBER 3, 1992	BRENNEMAN ET AL.				
	5,176,625	JANUARY 5, 1993	BRISSON				
	5,183,085	FEBRUARY 2, 1993	TIMMERMANS				
	5,690,643	NOVEMBER 25, 1997	WIJAY				

FOREIGN PATENT DOMENTS							
EXAMINER INITIAL	DOCUMENT NUMBER	DATE	COUNTRY	CL ASS	SUB CLASS	TRANSLATION	
						YES	NO

OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)	
ARTICLES	" 'MINI' GIANTURCO STAINLESS STEEL COILS FOR TRANSCATHETER VASCULAR OCCLUSION" BY JAMES H. ANDERSON, ET AL., FROM THE DEPARTMENT OF DIAGNOSTIC RADIOLOGY AT THE UNIVERSITY OF TEXAS SYSTEM CANCER CENTER , AUGUST 1978, PAGES 301 - 303. "A NEW IMPROVED COIL FOR TAPERED-TIP CATHETER FOR ARTERIAL OCCLUSION" BY VINCENT P. CHUANG, M.D., ET AL., MAY 1980, PAGES 507 - 509

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EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUB CLASS	FILING DATE IF APPLICABLE	
	5,624,461	APRIL 29, 1997	MARIANT				
	5,637,113	JUNE 10, 1997	TARTAGLIA ET AL.				
	5,690,671	NOVEMBER 1997	McGURK ET AL.				
	5,643,254	JULY 1, 1997	SCHELDROP ET AL.				
	5,676,697	OCTOBER 14, 1997	McDONALD				
	5,234,456	AUGUST 10, 1993	SILVESTRINI				
	5,304,194	APRIL 19, 1994	CHEE ET AL.				
	5,342,387	AUGUST 30, 1994	SUMMERS				
	5,382,259	JANUARY 17, 1995	PHELPS ET AL.				
	5,441,516	AUGUST 15, 1995	WANG ET AL.				
	5,443,478	AUGUST 22, 1995	PURDY				

FOREIGN PATENT DOCUMENTS							
EXAMINER INITIAL	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUB CLASS	TRANSLATION	
						YES	NO

OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)	
	RETRIEVABLE GIANTURCO-COIL INTRODUCER, By Jeffrey Hawkins, Ronald G. Quisling, MD, J. Parker Mickle, MD and Irvin F. Hawkins, MD (Radiology 1986) from the Depts. of Radiology and Neurosurgery, University of Florida Medical Center and Hawk Prototype Equipment, Gainesville, FL.

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INFORMATION DISCLOSURE CITATION (Use Several Sheets If Necessary)				APPLICANT DANIEL R. KURZ			
				FILING DATE Dec. 8, 2003		GROUP 3731	

U.S. PATENT DOCUMENTS							
EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUB CLASS	FILING DATE IF APPLICABLE	
	1,341,052	MAY 25, 1920	F. G. GALE				
	1,667,730	MAY 1, 1928	J. BIRCHARD GREEN				
	2,078,182	APRIL 20, 1937	A.E. MacFARLAND				
	2,549,335	APRIL 17, 1951	M. RAHTHUS				
	3,649,224	MARCH 14, 1972	ANDERSON ET AL.				
	3,334,629	AUGUST 8, 1967	B.D. COHN				
	4,655,771	APRIL 7, 1987	WALLSTEN				
	4,718,907	JANUARY 12, 1988	KARWOSKI ET AL.				
	4,830,003	MAY 16, 1989	WOLFF ET AL.				
	5,071,407	DECEMBER 10, 1991	TERMIN ET AL.				
	4,638,803	JANUARY 27, 1987	RAND				

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						YES	NO

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U.S. PATENT DOCUMENTS							
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	4,820,298	APRIL 11, 1989	LEVEEN ET AL.				
	4,850,960	JULY 25, 1989	GRAYZEL				
	4,954,126	SEPTEMBER 4, 1990	WALLSTEN				
	4,957,501	SEPTEMBER 18, 1990	LAHILLE ET AL.				
	5,064,435	NOVEMBER 12, 1991	PORTER				
	5,104,404	APRIL 14, 1992	WOLFF				
	5,133,731	JULY 28, 1992	BUTLER ET AL.				
	5,151,105	SEPTEMBER 29, 1992	KWAN-GETT				
	5,176,661	JANUARY 5, 1993	EVARD ET AL.				
	5,186,992	FEBRUARY 16, 1993	KITE, III				
	5,203,772	APRIL 20, 1993	HAMMERSLAG ET AL.				

FOREIGN PATENT DOCUMENTS							
DOCUMENT NUMBER	DATE	COUNTRY	CL ASS	SUB CLASS	TRANSLATION		
					YES	NO	

OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)	

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Substitute for form 1449A/PTO

**INFORMATION DISCLOSURE
STATEMENT BY APPLICANT**

(use as many sheets as necessary)

Sheet 9 of 10

Complete if Known

Application Number	10/731,631
Filing Date	December 8, 2003
First Named Inventor	Daniel R. Kurz
Art Unit	3731
Examiner Name	Uyen T. Ho.
Attorney Docket Number	MICRU 66414

U.S. PATENT DOCUMENTS

Examiner Initials [*]	Cite No. ¹	Document Number		Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number	Kind Code ² (if known)			
		US- 4,327,734		05-04-1982	White, Jr.	
		US- 4,402,319		09-06-1983	Handa et al.	
		US- 4,545,367		10-08-1985	Tucci	
		US- 4,732,152		03-22-1988	Wallsten et al.	
		US- 5,002,556		03-26-1991	Ishida et al.	
		US- 5,109,867		05-05-1992	Twyford, Jr.	
		US- 5,261,916		11-16-1993	Engelson	
		US- 5,341,818		08-30-1994	Abrams et al.	
		US- 5,562,698		10-08-1996	Parker	
		US- 5,645,564		07-08-1997	Northrup et al.	
		US- 5,695,111		12-09-1997	Nanis et al.	
		US- 5,733,294		03-31-1998	Forber et al.	
		US- 5,766,160		06-1998	Samson et al.	
		US- 5,944,733		08-31-1999	Engelson	
		US- 6,102,932		08-2000	Kurz	
		US- 6,168,570		06-1998	Samson et al.	
		US- 6,224,610		05-2001	Ferrera	
		US-				
		US-				
		US-				

FOREIGN PATENT DOCUMENTS

Examiner Initials [*]	Cite No. ¹	Foreign Patent Document			Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T ⁶
		Office ³	Number ⁴	Kind ⁵ (if known)				
		EP	0 358 767 A1		03-21-1990			

Examiner
SignatureDate
Considered

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This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Substitute for form 1449A/PTO INFORMATION DISCLOSURE STATEMENT BY APPLICANT (use as many sheets as necessary)		Complete if Known			
		Application Number	10/731,631		
		Filing Date	Dec. 8, 2003		
		First Named Inventor	Daniel R. Kurz		
		Group Art Unit	3731		
		Examiner Name	Yuen T. Ho		
Sheet 10		of	10	Attorney Docket Number	MICRU 66414

U.S. PATENT DOCUMENTS						
Examiner Initials	Cite No.	U.S. Patent Document No.		Name of Patentee or Applicant of Cited Document	Date of Publication of Cited Document MM-DD-YYYY	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number	Kind Code (if Known)			
		5,609,608		BENETT ET AL.		

FOREIGN PATENT DOCUMENTS								
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		Office	Number	Kind Code (If Known)				
		PCT	WO 97/01368		Trimedyn, Inc.	01/16/97		
		PCT	WO 98/02100		Anson Medical Limited	01/22/98		
		PCT	WO 99/32037		Boston Scientific Limited	07/01/99		
		EP	0 941 700 A1		Cordis Corporation	09/15/99		
		PCT	WO 00/12015		Micrus Corporation	03/03/00		

OTHER PRIOR ART - NON PATENT LITERATURE DOCUMENTS			
Examiner Initials	Cite No.	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published	T

Examiner Signature		Date Considered	
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